

Rayminh L. Ngo, Esq.,
SDNY #rn4834
HIGBEE & ASSOCIATES (Of Counsel)
1504 Brookhollow Dr., Ste 112
Santa Ana, CA 92705-5418
(714) 617-8350
(714) 597-6729 facsimile
rngo@higbeeassociates.com
Counsel for Plaintiff,
MICHAEL GRECCO PRODUCTIONS, INC.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHAEL GRECCO
PRODUCTIONS, INC. d/b/a
MICHAEL GRECCO
PHOTOGRAPHY, INC.,

Plaintiff,

v.

RUKKUS INC.; and DOES 1-10,
inclusive,

Defendants.

Case No. _____

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR
COPYRIGHT INFRINGEMENT
DEMAND FOR JURY TRIAL**

Plaintiff, Michael Grecco Productions, Inc. alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunction relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101 *et seq.*

2. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant conducts business and resides within the State of New York Defendant's acts of infringement complained of herein occurred in the State of New York, and Defendant caused injury to Plaintiff within the State of New York.

4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred. Alternatively, venue is also proper pursuant to 28 U.S.C. § 1400(b) because the Defendant resides and has a regular and established place of business in this judicial district.

PARTIES

5. Plaintiff Michael Grecco Productions, Inc. ("MGP" or "Plaintiff") is a professional media and photography company incorporated in the state of California run by renown celebrity photographer Michael Grecco ("Grecco").

6. Defendant Rukkus Inc. ("Defendant") is a Delaware corporation with a principal place of business at 33 Nassau Avenue, Brooklyn, NY 10018.

7. Defendant is the owner and operator of the website <https://www.rukkus.com> ("Defendant's Website").

8. Plaintiff is unaware of the true names and capacities of the

Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, sues such Defendants under such fictitious names. Plaintiff is informed and believes and on that basis alleges that such fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by the conduct of said Defendants. Plaintiff will seek to amend the complaint when the names and capacities of such fictitiously named Defendants are ascertained. As alleged herein, "Defendant" shall mean all named Defendants and all fictitiously named Defendants.

9. For the purposes of this Complaint, unless otherwise indicated, "Defendant" includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogates, representatives and insurers of Defendants named in this caption.

FACTUAL ALLEGATIONS

10. MGP's principle, Michael Grecco, is an award-winning commercial photographer and film director noted for his iconic celebrity portraits, innovative magazine covers, editorial images and advertising spreads for such companies such as NBC/Universal, GE, Pfizer, HBO, Kodak, ABC, IBM, Yahoo!, ESPN, Wired, Time, Entertainment Weekly, Esquire, Premier, and MAXIM. His work is regularly featured in prestigious galleries around the world.

11. A portfolio of Grecco's work, is available for viewing by general

public through the website <http://www.michaelgrecco.com/>.

12. Due to the high quality and limited availability of Grecco's works, MGP routinely licenses and/or sells individual photographs to media outlets for thousands of dollars.

13. MGP is the sole author and exclusive rights holder to an original photograph of comedian Will Ferrell (the "Image"). A true and correct copy of the Image is attached hereto as Exhibit A.

14. MGP registered the Image with the United States Copyright Office under registration number VAu 740-387.

15. Defendant is a live entertainment ticket broker. Defendant's customers can compare prices from over 100 ticket sites, as well as a network of private brokers in order to purchase tickets through Defendant's Website.

16. After selecting an artist, users of Defendant's Website are directed to a page featuring a banner photograph of the selected artist each page and a list of upcoming events next to a link to purchase tickets.

17. On information and belief, the banner photos displayed on each page of Defendant's Website is uploaded by Defendant and populated to Defendant's Website from a copy which is stored on a server controlled by Defendant.

18. On or about November 2016, Grecco discovered that Defendant was using the Image to advertise ticket sales for Will Farrell through Defendant's

Website.

19. After a brief investigation, MGP concluded that Defendant had never purchased a license for the Image, nor did MGP ever give Defendant permission to use the Image on Defendant's Website.

20. On information and belief, Defendant's use of the Image was willful because it knew that it did not have a license to use the Image.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101 *et seq.*

21. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

22. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original Image.

23. Plaintiff is informed and believes and thereon alleges that the Defendant willfully infringed upon Plaintiff's copyrighted Image in violation of Title 17 of the U.S. Code, because, *inter alia*, Defendants knew it did not have a legitimate license for the Image.

24. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000.00 per infringement pursuant to 17 U.S.C. § 504(c).

25. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

26. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- For statutory damages against Defendant in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c);
- For general and special damages against Defendant according to proof together with interest thereon at the maximum legal rate;
- For costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- For an injunction preventing Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and

///

///

///

///

///

- For any other relief the Court deems just and proper.

Dated: February 16, 2018

Respectfully submitted,

/s/ Rayminh L. Ngo

Rayminh L. Ngo, Esq.,

SDNY #rn4834

HIGBEE & ASSOCIATES (Of
Counsel)

1504 Brookhollow Dr., Ste 112

Santa Ana, CA 92705-5418

(714) 617-8350

(714) 597-6729 facsimile

rngo@higbeeassociates.com

Counsel for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Michael Grecco Productions, Inc., hereby demands a trial by jury in the above matter.

Dated: February 16, 2018

Respectfully submitted,

/s/ Rayminh L. Ngo

Rayminh L. Ngo, Esq.,

SDNY #rn4834

HIGBEE & ASSOCIATES (Of
Counsel)

1504 Brookhollow Dr., Ste 112

Santa Ana, CA 92705-5418

(714) 617-8350

(714) 597-6729 facsimile

rngo@higbeeassociates.com

Counsel for Plaintiff

EXHIBIT A



EXHIBIT B



